

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

**PAUL ROSBERG and
KELLY ROSBERG,**

Defendants.

Case No. 8:12CR271

**FINDINGS AND RECOMMENDATION
AND ORDER**

This case is before the court on the defendants Paul Rosberg's and Kelly Rosberg's Motion to Dismiss Indictment (#5). The defendants, Paul Rosberg and Kelly Rosberg, were indicted on August 12, 2012 as follows:

Paul Rosberg: Count 1, Conspiracy; Count 2, Sale of Misbranded Meat and Meat Products; Aiding and Abetting; Count 3, Sale of Uninspected Meat and Meat Products; Aiding and Abetting; Count 4, False Representation as to Inspected Meat and Meat Products; Aiding and Abetting; and Count 5, False Statement to Government Agency, punishable by up to five years' imprisonment, a \$250,000 fine, three years of supervised release, and a \$100 special assessment. The defendant Paul Rosberg, is pro se.

Kelly Rosberg: Count 1, Conspiracy; Count 2, Sale of Misbranded Meat and Meat Products; Aiding and Abetting; Count 3, Sale of Uninspected Meat and Meat Products; Aiding and Abetting; Count 4, False Representation as to Inspected Meat and Meat Products; Aiding and Abetting; and Count 6, False Statement to Government Agency, punishable by up to five years' imprisonment, a \$250,000 fine, three years of supervised release, and a \$100 special assessment. The defendant, Kelly Rosberg, is pro se.

On September 19, 2012 the defendants appeared before the undersigned United States Magistrate and a pretrial motion deadline was set for October 9, 2012. On September 4, 2012 the defendants filed a document titled "Motion to Dismiss Indictment" (#5). A careful review of the filing demonstrates that it is not in compliance with the local rule of the United States District Court for the District of Nebraska 12.3(b)(1), which provides, in part, that any party's failure to simultaneously file a brief may be an

abandonment of a motion. Even though the defendants in this case were pro se litigants when the motion was filed, they were required to follow both the local rules of the District of Nebraska and the Federal Rules of Criminal Procedure. As no brief was filed by the defendants, and the document fails to request an evidentiary hearing, I find that the failure to file a simultaneous brief to be an abandonment of the issues raised. I therefore find that the motion should be dismissed as it fails to comply with the District Court's local rules.

IT IS THE FINDING AND RECOMMENDATION TO SENIOR JUDGE RICHARD G. KOPF,

That the defendants' Motion to Dismiss Indictment (#5) should be dismissed and any issues raised in the motion be deemed abandoned for violation of Local Rule of the United States District Court for the District of Nebraska 12.3(b)(1).

IT IS ORDERED:

That the Clerk of the court, because of the defendants' pro se status, shall mail a copy of this Finding and Recommendation to the last address provided by the defendants.

Dated this 19th day of September 2012.

BY THE COURT:

s/ F.A. Gossett, III
United States Magistrate Judge

NOTICE

A party may object to a magistrate judge's order by filing an "Objection to Magistrate Judge's Findings and Recommendation and Order" within fourteen (14) days after being served with the order. The objecting party must comply with all requirements of NECrimR 59.2.